

# United States Department of the Interior

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#### FISH AND WILDLIFE SERVICE

Oregon Fish and Wildlife Office 2600 SE 98<sup>th</sup> Avenue, Suite 100 Portland, Oregon 97266 Phone: (503) 231-6179 FAX: (503) 231-6195

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Robert E. Willis Chief, Environmental Resources Branch U.S. Army Corps of Engineers, Portland District PO Box 2946 Portland, OR 97208-2946

Subject:

Reinitiation of Informal Consultation on the proposed jetty rehabilitation at the

mouth of the Columbia River Federal navigation channel in Clatsop County,

Oregon; reference number 1-7-04-I-0530.

Dear Mr. Willis:

This is in response to your letter dated August 9, 2004, transmitting the U.S. Army Corps of Engineers (Corps) evaluation of the impacts to bald eagle (*Haliaeetus leucocephalus*), marbled murrelet (*Brachyramphus marmoratus*), and brown pelicans (*Pelecanus occidentalis*) from additional planned work on jetty rehabilitation at the Mouth of the Columbia River (MCR). That letter also requested reinitiation of consultation and concurrence with a "may effect, not likely to adversely affect" determination for bald eagle, marbled murrelet, and brown pelicans. Your letter was received in our office on August 10, 2004.

#### CONSULTATION HISTORY

The U.S. Fish and Wildlife Service (Service) concurred with the Corps that the jetty rehabilitation project would not adversely affect listed species, and responded with a letter of concurrence dated January 20, 2004. However, the Corps has since identified additional actions not analyzed in the original BA. A Supplemental Biological Assessment (BA), outlining the changes to the proposed action and subsequent impacts to listed species was received in this office on August 10, 2004.

### DESCRIPTION OF THE PROPOSED ACTION

The primary project elements remain the same as described in the original BA and letter of concurrence and both documents are incorporated by reference. This consultation is based effects from additional options to have contractors deliver armor stone to the north and south jetty sites on existing roads.

Use of haul roads through Washington State Parks property north of the jetties to import armor stone would result in truck traffic of about 20 to 30 round trips per day during daylight hours on

the end of the haul road on the eastern side of Clatsop spit. Approximately 50 linear of sheet pile will be placed and filled with quarry waste material. Approximately 4,000 cy of material will need to be dredged riverward of the platform to ensure that the barges can offload at the site. The dredged material will be tested prior to removal and if found to be clean, may be used to construct the haul road. The new and old haul roads will be replanted upon completion of the project. Any damage to the asphalt will be restored to preconstruction condition.

Two-5-acre work areas would be constructed to maneuver trucks/stone handling equipment and/or stockpile stone near the jetty. Stone weighing facilities would be constructed at these sites. One 5-acre site would be located near the jetty and would use approximately half of the east parking lot and some adjacent land. Some grading of sand would be conducted and crushed gravel would be used to improve the work area. The five-acre site located adjacent to the barge off-loading platform would be cleared of vegetation prior to the western snowy plover (*Charadrius alexandrinus nivosus*) nesting season. A temporary gravel access road would be constructed to facilitate equipment access from the work area near the western end of the haul road to the crest of the jetty. The work area and access road area would be restored after jetty work is completed. The 400 foot-long access road (25 feet wide) and ramp would be situated above the Mean Higher high water Mark (MHHWM) and would be constructed of 4,000 cy of sand, gravel, and small rip rap. The access road and ramp would be removed at the completion of the work. This road would require a tree-foot diameter galvanized culvert to facilitate tidal exchange and surface water run off to/from the wetland within Clatsop spit.

3. The tow boat and barge option remains the same as detailed in the 2003 BA.

#### STATUS OF THE SPECIES

#### Bald eagle

Bald eagles were listed under the Endangered Species Act as an endangered species in the conterminous United States on March 6, 1967. The Pacific Northwest Management Unit of bald eagles was subsequently down-listed to threatened status on February 14, 1978. Bald eagles within this management unit have achieved most recovery goals for delisting. The main threat factors to bald eagles are disturbance of nesting or foraging birds and bioaccumulation of organochlorine pesticide residues.

Nesting behaviors typically begin in January, followed by egg laying and incubation from February to March. Young are reared throughout April, May, and June. Fledging occurs in July and August. Bald eagles are primarily predators but also opportunistic scavengers. Food items include fish, small mammals, waterfowl, and carrion.

According to your BA four bald eagle territories, two at Cape Disappointment, Washington (Cape Disappointment and Fort Canby) and two on Clatsop Spit, Oregon (Fort Stevens and Tansy Point/Clear Lake), occur in the general project vicinity. The nearest known nest location for the Fort Canby pair is approximately 1.3 miles north and east of the North Jetty. The nearest known

nest location for the Cape Disappointment pair is approximately 1.5 miles from the North Jetty. The Fort Stevens and Tansy Point/Clear Lake pairs are more than three miles from the South Jetty.

Two bald eagle nesting territories (Cape Disappointment and Fort Canby) occur in the vicinity of the proposed haul roads and nests of the Cape Disappointment pair are located in close proximity to the roads; one nest is located about 375 feet from a potential haul road, two nests are about 500 feet from the haul road, and two nests are at about 750 feet from the haul road. The two nests of the Fort Canby pair are located at a distance greater then one quarter-mile from potential haul roads. According to your BA, neither of these pairs nested in 2004.

Nests of the Fort Stevens and Tansy Point/Clear Lake pairs occur in the project vicinity. Two nests of the Fort Stevens pair occur at distances of about 900 and 1,200 feet from potential haul roads. The tree nests of the Tansy Point/Clear Lake pair occur at distances of about 1,300 feet, 1,400 feet, and 1,600 feet from a potential haul road.

Wintering bald eagles also forage at the above named locations. Baker Bay in the lower estuary is an important wintering area for bald eagles. Wintering birds also use the Trestle Bay and marsh and beach habitats near the south jetty. Grays and Cathlamet Bays upstream of Columbia River mile (CRM) 18 represent the most important wintering areas for bald eagles along the lower Columbia River.

#### Brown pelican

Brown pelicans occur in the Columbia River estuary and offshore areas between approximately late-spring and mid-fall each year. These birds are thought to be comprised primarily of post-breeding migrants and immature birds. Brown pelicans feed mostly on northern anchovies (sdfhsdfh), which are common in the lower estuaries of Oregon during summer.

Brown pelicans congregate on jetties, rocks, and sand flats in the project vicinity. The south jetty receives substantial use by brown pelicans. Pelicans forage over open water areas, including the MCR and bar, estuarine embayments, and nearshore ocean waters. East Sand Island is used extensively for a night roost and day-time loafing location. Numbers of brown pelicans at this location have ranged from 2,000 to 4,500 birds at peak periods during the last few years.

#### Marbled murrelet

The marbled murrelet is a near-shore marine bird that is most frequently observed with in one-half mile of shore. Marbled murrelets forage just beyond the breaker-line and along the sides of river mouths where greater upwelling and less turbidity occurs. Murrelets forage within the water column; prey items include invertebrates and small fish such as anchovy (*Anchoa spp.*), herring (*Clupea spp.*), and Pacific sandlance (*Ammodytes spp.*). Currently, the largest concentrations of marbled murrelets in Oregon are thought to occur along the central coast between Depoe Bay and Coos Bay.

Murrelets use older forest stands generally within 50 miles of the coast for nesting. More commonly, murrelets occupy old-growth forests compared to mixed-age and young forests in

California, Oregon, and Washington. Suitable habitat for murrelets includes contiguous forested areas with conditions that support nesting murrelets. These forests are generally characterized by large trees greater than 32 inches dbh, multistoried stand, and contain a moderate canopy closure.

Marbled murrelets are expected to occur in the general vicinity of the MCR. Strong et. al. (1995) recorded less than 10 marbled murrelets on average for boat and shore-based surveys of marbled murrelets off the MCR. They reported that murrelets were concentrated within one kilometer (km) of shore in 1992, but broadly scattered within five km of shore in 1993. The Cape Disappointment area contains suitable nesting habitat. While nesting has not been documented in this area, birds have been frequently noted in flight during the nesting season and it is likely they nest in the area. Marbled murrelet nesting habitat has been identified adjacent to the proposed haul road through Washington State Parks property.

#### CONCLUSION

The Service does not believe that activities associated with the rehabilitation of the north and south jetties at the MCR will adversely affect listed species for the following reasons:

- The Corps has proposed a series of Conservation Measures that are designed to reduce the
  potential that activities associated with jetty rehabilitation may affect listed species. These
  include:
  - a. Trucks will not unnecessarily stop along the haul roads.
  - b. Trucks will be prohibited from using compression brakes (also known as jake brakes) on the haul roads except in emergency situations.
  - c. Trucks will only be allowed to use haul roads during daylight hours.
- While there are multiple bald eagle nesting territories throughout the project area, the
  conservation measures mentioned above (Conservation Measures a and b) should
  effectively minimize the potential to disturb nesting bald eagles.
- While suitable nesting habitat occurs within Washington State Parks property, the Conservation Measures mentioned above (Conservation Measure a, b, and c) should effectively minimize the potential to disturb nesting marbled murrelets.
- 4. Construction activities could discourage bald eagles, brown pelicans, and marbled murrelets from foraging directly adjacent to the project site, there is plenty of available habitats near by. Further, because of the magnitude of human activity at the MCR, these species have likely developed alternative foraging strategies or have otherwise adapted to these activities.

## CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery

plans, or to develop information. The Service recommends that the following conservation measures be implemented as a means of furthering the conservation of western snowy plovers:

To improve habitat for snowy plovers, the Service recommends that:

1. The Corps should use the heavy equipment that will already be in place at the south jetty staging area to restore and enhance nesting habitat on Clatsop Spit by removing European beach grass (Ammophila arenaria) or other species from Clatsop Spit. This area has been identified as a priority area for restoration of suitable habitat under the Oregon State Parks draft Habitat Conservation Plan. The proposed emphasis area would include at least part of the proposed staging areas.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, we request notification of the implementation of any conservation recommendations.

If you have any questions or concerns regarding this Biological Opinion, please contact Gregory M. Smith at the Oregon Fish and Wildlife Office, 2600 SE 98<sup>th</sup> Avenue, Portland, Oregon 97266 (503-231-6179).

Sincerely,

Kemper McMaster State Supervisor

# Literature Cited

Strong, C.S., B.S. Keitt, W.R. McIver, C.J. Palmer, and I. Gaffney. 1995. Distribution and population estimates of marbled murrelets at sea in Oregon during the summer of 1992 and 1993. Chapter 32 in Ralpf, C.J., G.L. Hunt, Jr., M.G. Rapheael, and J.F. Piatt. 1995. Ecology and Conservation of the marbled murrelet. Gen. Tech. Rep. PSW-GTR-152. Albany, CA: Pacific Southwest Research Station, Forest Service, U.S. Department of Agriculture, 145 pp.